

REMARKS

This paper is presented in response to the Office Action. Claims 12, 29, and 31 are amended herein. Claims 26 and 33-36 were canceled in a previous paper. Claims 1-25, 27-32, and 37-42 are pending in the application.

Reconsideration of the application is respectfully requested in view of the aforementioned amendments to the claims and the following remarks. For the convenience and reference of the Examiner, Applicants' remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. General Considerations

a. claim amendments and/or cancellations

With particular reference to the claim amendments, Applicants note that while claims 12, 29, and 31 have been amended herein, such amendments have been made in the interest of expediting the allowance of this case. Notwithstanding, Applicants, may, on further consideration, determine that claims of broader scope than those now presented are supported. Accordingly, Applicants hereby reserve the right to file one or more continuing applications with claims broader in scope than the claims now presented.

Consistent with the points set forth above, Applicants submit that neither the claim amendments set forth herein, nor any other claim amendments, claim cancellations or statements advanced by the Applicants in this or any related case, constitute or should be construed as, an implicit or explicit surrender or disclaimer of claim scope with respect to the cited, or any other, references.

b. remarks

Applicants respectfully note that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the patentable distinctions between any cited references and the invention, example embodiments of which are set forth in the claims of this application. Rather, and in consideration of the fact that various factors make it impractical to enumerate all the patentable distinctions between the invention and the cited art, as well as the fact that the Applicants have broad discretion in terms of the identification and consideration of the base(s) upon which the claims distinguish over the cited references, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration by the Applicants, in this case or any other, of: additional or alternative distinctions between the invention and the cited references; and/or, the merits of additional or alternative arguments.

Applicants note as well that the remarks, or a lack of remarks, set forth herein are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicants reserve the right to challenge the purported teachings and purported prior art status of the cited references at any appropriate time.

II. Claim Rejections under 35 U.S.C. § 103(a)

Applicants respectfully note at the outset that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to clearly articulate the reason(s) why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made. See *MPEP* § 2141.III. As stated by the U.S. Supreme Court in *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. ____, 82 USPQ2d 1385 (2007), the analysis supporting a rejection made under 35 U.S.C. § 103 should be made explicit. Moreover, the Court also stated in *KSR* that "...[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.* at 1396.

The Examiner has rejected claims 1, 11-14, 23, 24, 29, 31, 37, 38, 41, and 42 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,557,437 to Sakai et al. ("*Sakai*") in view of U.S. Patent No. 5,706,277 to Klink et al. ("*Klink*"). The Examiner has also rejected claims 2-9, 15-21, 25, 27, 39, and 40 under 35 U.S.C. § 103(a) as being unpatentable over *Sakai* in view of *Klink* and further in view of U.S. Patent Application Publication No. 2002/0021468 to Kato et al. ("*Kato*"). Applicants respectfully disagree and submit that for at least the reasons set forth below, the rejections should be withdrawn.

A. Claims 1-11, 23-25 and 27-28

In the rejection of these claims, the Examiner has alleged that *Sakai* discloses "...an input port...in communication with an optical transmitter [16]...[and] an output port...in communication with an optical receiver [1]..." as well as "...a loopback path (i.e., a loopback path 24, Fig. 1) for selectively coupling an incoming electrical signal from the input port to the output port (i.e., col. 4, lines 49-67, col. 5, lines 1-67 and col. 6, lines 1-26)..." Office Action at 1-2. Emphasis added. Applicants respectfully disagree.

With regard to the first passage (col. 4, lines 49-67 of *Sakai*) cited by the Examiner, Applicants note that contrary to the assertion of the Examiner, no mention whatsoever is made of any sort of "loopback path," much less a "loopback path" as recited in the rejected claims. Accordingly, that passage fails to provide support for the rejection made by the Examiner.

Moreover, while the Examiner has also cited col. 5, lines 1-67 in support of the rejection, Applicants note that the cited passage recites an arrangement that is the opposite of the characterization advanced by the Examiner. Particularly, the Examiner has alleged that the cited passage discloses a loopback path 24 “...for selectively coupling an incoming electrical signal from the input port to the output port...” Id. Emphasis added. In fact however, that passage states “...the self-loopback section 24 connects the receive device [including reference numeral 1] and transmitter device [including reference numeral 16] so that a signal output from the receiver device [associated by the Examiner with the output port] is sent to the transmitter device [associated by the Examiner with the input port]...” Col. 5, lines 64-67. Emphasis added. Insofar as the rejection made by the Examiner contradicts the actual language of the cited reference, the rejection is not well taken.

Finally, the reliance of the Examiner on col. 6, lines 1-26 of *Sakai* is misplaced inasmuch as that passage only mentions “self-loopback section 24” but does not provide that the self-loopback section 24 is configured for “...selectively coupling an incoming electrical signal from the input port to the output port...” as the rejected claims require.

Applicants thus respectfully submit that for at least the foregoing reasons, the rejection of claims 1 and 23, as well as the rejection of respective dependent claims 11, 24, 25, 27 and 28, should be withdrawn.

B. Claims 12-22, 29-32 and 37-42

As amended herein, independent claim 12 and 31 each requires a “pass-through path” configured to selectively couple an “electrical output signal” to a “pass-through port...without converting the electrical output signal into an optical signal.” Support for these amendments can be found, for example, in paragraph [0061] and Figure 6 of the specification.

In the rejection of claims 12 and 31, the Examiner has admitted that “Sakai et al differs from claims 12 and 31 in that he fails to teach a pass-through port operable to send the electrical output signal to a device external to the transceiver and a pass-through path configured to selectively couple the electrical output signal from the optical receiver to the pass-through port.” *Office Action*, page 3. However, the Examiner has asserted that “Klink...teaches a pass-through port operable to send the electrical output signal to a device external to the transceiver and a pass-through path configured to selectively couple the electrical output signal from the receiver 106a to the pass-through port.” In support for these assertions, the Examiner has made only general references to Figures 1-3 and column 4, line 39 to column 6, line 26 of *Klink*.

As is evident from the generalized references to *Klink* set forth in the Office Action, the Examiner has failed to specifically identify any correspondence between elements purportedly disclosed in *Klink*

and “a pass-through port...” and “a pass-through path...” recited in rejected claims 1, 12, and 29. Moreover, the cited passage does not appear to make any reference to a “pass-through port” or a “pass-through path.” Instead, as discussed above, the cited passage of *Klink* teaches that “digital signals” are transmitted between the “two terminals 1 and 3” by way of an “operating link 21” and a “standby link 22,” which each includes a pair of “optical transmitters” and “optical receivers” that are used to convert between electrical data signals and optical data signals. *See Figures 1-3 and column 4, lines 39-56.*

Applicants thus respectfully submit that for at least the foregoing reasons, the rejection of claims 12 and 31, and of claims 13-22, 32, 39, and 40 which depend therefrom, should be withdrawn.

With respect, finally, to claims 29 and 30, Applicants have amended independent claim 29 herein to require a “pass-through path” configured to selectively couple an “electrical signal” to a “pass-through port without converting the electrical input signal into an optical signal.” Support for these amendments can be found, for example, in paragraph [0061] and Figure 6 of the specification.

In the rejection of independent claim 29, the Examiner has admitted that “Sakai differs from claim 1, 23...and 29 in that he fails to specifically teach a pass-through port operable to send the incoming electrical signal to a device external to the transceiver and a pass-through path configured to bypass the optical transmitter in selectively coupling the incoming electrical signal from the input port to the pass-through port.” *Office Action, page 2.* However, the Examiner has asserted that “*Klink*...teaches a pass-through port operable to send the incoming electrical signal to a device external to the transceiver and a pass-through path configured to bypass the optical transmitter in selectively coupling the incoming electrical signal from the input port to the pass-through port.” *Office Action, page 2.* In support for these assertions, the Examiner has made only general references to Figures 1-3 and column 4, line 39 to column 6, line 26 of *Klink*.

As is evident from the generalized references to *Klink* set forth in the Office Action, the Examiner has failed to specifically identify any correspondence between elements purportedly disclosed in *Klink* and “a pass-through port...” and “a pass-through path...” recited in rejected claims 1, 12, and 29. Moreover, the cited passage does not appear to make any reference to a “pass-through port” or a “pass-through path.” Instead, the cited passage of *Klink* teaches that “digital signals” are transmitted between the “two terminals 1 and 3” and that the “terminals 1 and 3 are connected to one another via the operating link 21 and the standby link 22.” *See column 4, lines 39-45.* As shown in Figures 1-3 of *Klink*, each of the “operating link 21 and the standby link 22” includes a pair of “optical transmitters” and “optical receivers” that are used to convert between electrical data signals and optical data signals. *See Figures 1-3 and column 4, lines 46-56.*

III. Allowable Subject Matter

Applicants acknowledge with thanks the indication of the Examiner that claims 10, 22, 28, 30 and 32 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. In light of the remarks herein and the amendments made herein to each of the base claims from which these claims depend, however, Applicants respectfully decline to rewrite these claims at this time.

CONCLUSION

In view of the remarks submitted herein, Applicants respectfully submit that each of the claims 1-25, 27-32, and 37-42 pending in this application is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 18th day of June 2008.

Respectfully submitted,

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